

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The remand being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 38

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

JUN 23 1999

PAT.&T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KOYO KATSURA, SHINICHI KOJIMA,
and NORIYUKI KURAKAMI

Appeal No. 1999-2232
Application No. 07/985,141¹

REMAND TO EXAMINER

Before STONER, Chief Administrative Patent Judge, HARKCOM, Vice Chief Administrative Patent Judge, and NASE, Administrative Patent Judge.

NASE, Administrative Patent Judge.

REMAND TO THE EXAMINER

The above-identified application is being remanded to the examiner for appropriate action.

¹ Application filed December 3, 1992, for reissue of U.S. Patent No. 4,975,857 (Application No. 07/302,332, filed January 27, 1989).

BACKGROUND

1. A review of the file record indicates that claims have been rejected under 35 U.S.C. § 251 as being based upon a defective reissue declaration. Specifically, the basis for the rejection includes a determination by the examiner that the reissue declaration is defective for failing to comply with the requirements of 37 CFR § 1.175(a)(3) and (a)(5).

2. The requirements of 37 CFR § 1.175 were amended effective Dec. 1, 1997, by final rule notice, 62 Fed. Reg. 53131, 53197 (Oct. 10, 1997), 1203 Off. Gaz. Pat. Office 63, 122 (Oct. 21, 1997). Specifically, the old requirements of 37 CFR § 1.175 (a)(3) and (a)(5) were removed.

ACTION

We remand the application to the examiner for a determination of whether the rejection under 35 U.S.C. § 251 as being based upon a defective reissue declaration is appropriate in light of the changes to 37 CFR § 1.175, effective December 1, 1997.

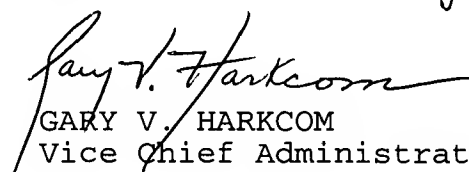
CONCLUSION

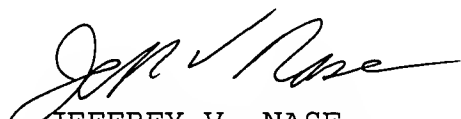
This application, by virtue of its "special" status, requires immediate action, see MPEP § 708.01 (Seventh Edition, July 1998).

If after action by the examiner in response to this remand there still remains decision(s) of the examiner being appealed, the application should be promptly returned to the Board of Patent Appeals and Interferences.

REMANDED


BRUCE H. STONER, JR.
Chief Administrative Patent Judge


GARY V. HARKCOM
Vice Chief Administrative Patent Judge


JEFFREY V. NASE
Administrative Patent Judge

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